CITY OF GEORGETOWN, KENTUCKY

ORDINANCE NO. 2021-23

AN ORDINANCE AMENDING CHAPTER 40, ARTICLE II OF THE GEORGETOWN CODE OF ORDINANCES REGARDING SOLID WASTE COLLECTION AND DISPOSAL.

SUMMARY

- 1. Amends section 40-23 of the Georgetown Code of Ordinances to provide for collection and disposal of solid waste via exclusive franchise and provides a penalty for violation thereof.
- 2. Establishes consistency by including references to "Exclusive Solid Waste Franchisee" throughout the article.
- 3. States that the penalty for solid waste service delinquencies shall be the same as the charge assessed for delinquent water and sewer fees.
- 4. Provides that GMWSS shall remit to the City fees and penalties for solid waste services on at least a quarterly basis.
- 5. Indicates that the rate for collections shall be provided in the franchise agreement with the Exclusive Solid Waste Franchisee.
- 6. Provides for repeal of inconsistent laws, severability of provisions, and an effective date of February 1, 2022 and upon passage and publication.

The full text of this Ordinance is available for examination in the City Clerk's Office, 100 North Court Street, Georgetown, Kentucky 40324 or at www.georgetownky.gov.

INTRODUCED AND PUBLICLY READ FIRST TIME: November 22, 2021

PUBLICLY READ SECOND TIME AND PASSED: December 13, 2021

APPROVED: Tom Prather (Dec 15, 2021 14:55 EST)

Tom Prather, Mayor

ATTEST: Tracie Hoffman

Tracie Hoffman (Dec 22, 2021 09:56 EST)

Tracie Hoffman, City Clerk

I, Devon E. Golden, hereby certify I am an Attorney licen	sed to practice law in the Commonwealth
of Kentucky. My office is located at 100 North Court	Street, Georgetown, Kentucky 40324. I
further certify the foregoing Summary of Ordinance	e 2021-23 of the City of Georgetown,
Kentucky, was prepared in accordance with the require	ments of KRS 83A.060(9) and is a true and
accurate summary of the contents of said Ordinance.	Deran Hold

Devon E. Golden

ORDINANCE 2021-23

AN ORDINANCE AMENDING CHAPTER 40, ARTICLE II OF THE GEORGETOWN CODE OF ORDINANCES REGARDING SOLID WASTE COLLECTION AND DISPOSAL.

Sponsor: Council Members Todd Stone and Greg Hampton

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF GEORGETOWN, KENTUCKY:

SECTION ONE

Chapter 40, Article II of the Georgetown Code of Ordinances is amended as follows:

Sec. 40-23. [Definitions.] Solid Waste and Recycling Collection.

- (a) Exclusive Franchise. So long as there exists an exclusive franchise for the collection of garbage, trash, refuse and recyclable materials within the city of Georgetown, which franchise shall be granted by ordinance to an Exclusive Solid Waste Franchisee, it shall be unlawful for any person, firm or corporation other than the Exclusive Solid Waste Franchisee, to enter in and upon the streets and other public ways of the city for the purpose of collecting and hauling away from businesses, homes, dwellings, and other places where necessary, any garbage, trash, refuse and recyclable materials. This section shall not be read to prohibit any person, firm or corporation from performing garbage, trash, refuse and recycling services not covered by the exclusive franchise, provided the person, firm or corporation otherwise complies with the provisions of this Article, including but not limited to the non-exclusive franchise requirements.
- (b) Penalty. Any person, firm or corporation found guilty of violating the provisions of Sec. 40-23(a) shall be fined no less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) or imprisoned for not more than one (1) year, for each offense. Each separate act of collection shall constitute a separate offense.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: (1) Solid wastes. Types of solid waste include the following:

Commercial waste means paper and packaging.

Construction and demolition debris means materials from building, remodeling,

repairing or demolishing buildings or structures. Construction and demolition debris must be limited to a volume equivalent to that of the approved container and not exceeding the weight of that of the approved container. Debris exceeding these limits must be disposed of by the person by other means. Carpet shall not be placed in approved containers, but in bundles not to exceed four feet in length and 50 pounds in weight. Fence material must be cut into panels not to exceed four feet in width and length and 50 pounds in weight. Composting material means tree trimming and yard wastes. Composting material, other than leaves and grass, shall not be placed in approved containers, but in bundles not to exceed four feet in length and 50 pounds in weight. Leaves shall be placed in approved heavy duty plastic bags of minimum of 0.65 mils thickness. These bags shall be of minimum capacity of ten gallons and a maximum capacity of 32 gallons. Piles of leaves will be accepted during approved leaf collection seasons in November and December of each year but those piles shall not exceed four feet in height by ten feet in length. Collection of these materials is scheduled in a manner similar to special collections. Hazardous waste means any waste product or other substance which is classified under any federal or state statute, regulation or other rule as hazardous to public health or safety now or hereinafter. The classification of such waste by federal or state authorities shall be deemed conclusive evidence of the nature of the waste insofar as the city and any user or customer of the garbage disposal facilities thereof is concerned. The term "hazardous waste" also includes, but is not limited to, medical waste (as defined below), tires, batteries, liquids, waste generated from portable toilets and all other wastes defined by the cabinet for environmental and public protection as hazardous shall not be collected by the city. All collection of these wastes shall be disposed of in accordance with applicable state regulation.

Industrial means any house, building or other structure used for manufacturing or industrial processes or purposes and which generates or may be expected to

generate waste or waste products of a character not typical of residential or other business uses.

Medical waste means any waste product or other substance generated by any hospital, physician or dentist's office, medical laboratory or other medical facility which is classified under any federal or state statute, regulation or other rule as hazardous to public health or safety now or hereinafter. The classification of such waste by federal or state authorities shall be deemed conclusive evidence of the nature of the waste insofar as the city and any user or customer of the garbage disposal facilities thereof is concerned.

Municipal waste means both putrescible and non-putrescible waste containing food waste, paper, household products, appliances (white goods), electronics, discarded furniture, and other non-putrescible material.

Recycling means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the governing state or federal governmental agency/cabinet/entity, but does not include the incineration or combustion of materials for the recovery of energy.

(2) Approved containers. Approved containers shall be constructed of hot stamped plastic injection-molded material with volume capacity of 65- and 96-gallon containers. All such containers shall have at least one handle and a tight fitting lid. The city will provide the container, at the customer's expense, meeting these criteria to each customer and it shall be known as a "Herbie-Curbie." Inside weight allowance shall be 200 pounds for each container. Composting material, other than leaves and grass, shall not be placed in approved containers, but in bundles not to exceed four feet in length and 50 pounds in weight. Leaves and grass shall be placed in heavy duty plastic bags of a minimum of (0.65) mils thickness. These bags shall be of a minimum capacity of ten gallons and a maximum capacity of 32 gallons.]

Sec. 40-24. Compulsory collection.

- (a) Except through the use of dumpsters or special arrangement for hazardous waste disposal, all solid waste generated within the city shall be collected by the city's Exclusive Solid Waste Franchisee. Private persons may collect solid waste generated within the city if that waste is collected in a dumpster. Collection from dumpsters shall be governed by the applicable sections below.
- (b) Each household shall be required to subscribe, and shall be conclusively presumed to have subscribed to the city's collection service, established through solid waste collection franchise with the Exclusive Solid Waste Franchisee and shall pay the applicable charge therefor.
- (c) Every commercial operator or occupant of any premises within the city, originating or accumulating garbage or trash thereon, shall be conclusively presumed to have subscribed to the city's collection service, established through solid waste collection franchise with the Exclusive Solid Waste Franchisee, even though the commercial operator may haul and dispose of his own garbage and trash [to the city dump or] elsewhere. In any event, without excusing any person from any criminal penalty under this article, if any trash, garbage, or other refuse of any kind is allowed to accumulate anywhere within the city for such a period of time as to constitute a nuisance, the owner or occupant of the property upon which such nuisance is located, even though not a subscriber to the city's collection service under the terms of this article, shall each be conclusively presumed to have authorized the city to remove such trash, garbage, or other refuse and shall each be responsible to the city for the payment of the city's reasonable charges for collecting and hauling the refuse, which shall be not less than the monthly charge shown on the then currently effective schedule of charges for performing similar service.

Sec. 40-25. Collection agent.

The Georgetown Municipal Water and Sewer Service (GMWSS) is designated as agent of the city for the purpose of collecting the required fee for the collection of the solid waste generated within the city. Other than fee collection, GMWSS shall have no authority or responsibility related to solid waste collection. GMWSS shall prepare and mail statements

on or before the first day of the month following the month in which solid waste collection and disposal is performed. Failure of GMWSS to provide a statement shall not relieve the customer of the obligation of paying the required charge for service.

- (1) The waste collection fee is due within twenty (20) days of the billing. Amounts not timely paid shall be delinquent. [A reasonable penalty may be charged for late payments] The penalties for delinquent payment shall be the same as GMWSS charges for delinquent water and sewer fees. This penalty and all other reasonable charges related to the city's collection and disposal of solid waste shall be subject to review and modification from time to time by the city council. All delinquent owners or residents shall receive a written notice of the overdue payment. Failure to pay the fee within the time required by the notice[7] shall result in the disconnection of GMWSS water service to the property at which the waste collection service was rendered. Water service will be renewed at such time as the delinquent account is made current, together with all reasonable charges and expenses incurred by the city during cut-off and reconnection of water service. No water service shall be terminated, however, without written notice to the water service recipients.
- (2) GMWSS shall keep proper records showing all billings made and collections received. All accounts shall be audited annually by a competent independent certified public accountant. The report thereof shall be open for public inspection.
- (3) GMWSS shall remit all solid waste fees and penalties to the city not less often that quarterly.

Sec. 40-26. Rules and regulations.

The council shall promulgate and enforce any and all reasonable rules and regulations deemed necessary or proper from time to time to carry out the objects and purposes of this article for protection of the health and welfare of the citizens of the city as it relates to the collection, removal and disposal of solid waste.

Sec. 40-27. Rates for collection.

Rates for solid waste collection service shall be as established by the City in its franchise agreement with the Exclusive Solid Waste Franchisee. A copy of the franchise agreement and ordinance shall be available for public inspection in the City Clerk's office.

[(a) In order to make the service proposed in this article revenue producing and to defray

the cost of collection, removal, disposal, maintenance, costs of acquiring or construction of a waste disposal system and necessary facilities, the following schedule of fees, rates and charges for waste collection and removal, is adopted.

- (b) The within rates apply to municipal waste only, except where noted. These charges are subject to adjustment for abnormal volume or conditions.
 - (1) Standard residential Herbie collection. The monthly rate for once weekly residential waste collection shall be \$15.00 per dwelling unit for a single Herbie-Curbie. Customers may request additional Herbie-Curbies for \$5.00 per Herbie, per month, with a maximum of three Herbies per dwelling unit. Additional Herbies requested after the effective date of the ordinance from which this article is derived must be retained by the customer for a minimum of 12 months. Any customer who, within the 12 months immediately preceding the effective date of this the ordinance from which this article is derived, paid for an additional Herbie may apply for a pro-rata refund of the purchase price, provided the customer keeps the Herbie for at least 12 months from the time the Herbie was originally received. For example, if a customer purchased a Herbie three months prior to the effective date of the ordinance from which this article is derived, customer may receive a refund equal to three-quarters of the purchase price.
 - (2) Commercial Herbie collection. The monthly rates for commercial Herbie collections shall be as follows:

HERBIE COLLECTION RATES

Weekly Frequency

Rate Item	1	2	3	4	5
First Herbie	\$20.00	\$40.00	\$60.00	\$80.00	\$100.00
Each	\$ 5.00	\$10.00	\$15.00	\$20.00	\$25.00
Additional					
Herbie					

Commercial customers shall be limited to a maximum of five Herbies per business.

The director of public works shall have the right to limit the number of Herbies per parcel and, if necessary, to require a particular business or property owner to obtain private dumpster collection.

(c) The services included for the fees set out in this schedule do not include the collection of the following types of waste: Offal, sewage, construction and demolition debris, electronics, appliances (white goods), discarded furniture, tree trimmings except bundles not in excess of four feet in length and in excess of 50 pounds in weight, or hot ash. Offal and sewage shall not be disposed of through the city's municipal solid waste disposal program. The city will collect limited amounts of appliances (white goods), electronics, discarded furniture, construction and demolition debris from residential persons and tree trimmings over four feet in length and in excess of 50 pounds in weight on a monthly basis according to a scheduled route and time. Notice of this monthly route will be published on the city's internet website. At other times, the city may collect such items upon special collection request to public works. Special collections shall be assessed an additional charge commensurate with the additional service required by their particular need in an amount to be determined by sanitation director which will be published twice a year. The city shall have the right to deny waste collection, removal or disposal service to any person whose waste requirements exceed the city's capabilities or are of such nature that the city is without appropriate means for the waste's disposal. Buildings or dwellings not readily accessible to city public works employees, persons setting out waste not properly contained or prepared, or users requiring service more frequently than regularly scheduled, shall be assessed an additional charge commensurate with the additional service required by their particular need.

(d) Reduced residential Herbie rate. Any customer who is at least 65 years of age may request a reduced residential Herbie rate of \$8.00 per month per dwelling unit. Application for the reduced rate must be made in person at the collection agent's office. Water service must be in the name of the applicant. Reduced residential Herbie rate customers may request additional Herbie-Curbies for \$5.00 per Herbie, per month, with a maximum of three Herbies per dwelling unit.

(e) All revenue generated will remain in the sanitation fund excepting therefrom any revenue received for reimbursement of Herbie-Curbie receptacles which shall be transferred to the city's general fund.]

Sec. 40-28. Nuisance regulations.

The following acts and conditions are declared to be nuisances and unlawful, and subject to enforcement pursuant to the provisions of the chapter 2, article VI:

- (1) (1) No person shall permit solid waste to accumulate in any manner other than required in this article for its proper disposal.
- (2) (2) No person shall permit the accumulation of solid waste upon any premises owned or used by them. Such an accumulation is unsightly, unsanitary and hazardous to the health, safety or welfare of the public. Such an accumulation is also detrimental to the value of the property upon which the waste is permitted to accumulate as well as those in proximity. Both owner and tenant shall be accountable for the accumulation of waste on rental property. The owner shall be responsible for the accumulation of waste on owner-resident property.
- (3) (3) No person shall deposit, by any means, solid waste upon any premises, street or alley, whether public or private, irrespective of an intent to later remove the waste, in any manner other than that prescribed by this section. No person shall suffer or permit the accumulation of waste, on any premises owned, occupied or controlled by such person.
- (4) [No city employee, while acting within the scope of his employment, shall remove waste from any premises, unless such waste is properly contained as prescribed by

this section.

- (5) (4) No person shall place or keep solid waste containers, even if otherwise in conformity with this section, nearer to the street than the front facade of the residence or the commercial, industrial, or service building in which the waste is generated or otherwise on or about the sidewalk, curb or street at any time other than after 6:00 p.m. on the day before the city's Exclusive Solid Waste Franchisee is scheduled to collect that street's municipal waste and no later than 10:00 p.m. on the day on which the city's Exclusive Solid Waste Franchisee collects that street's municipal waste. [If collection day falls on a city holiday, the holiday schedule will be published via public notice in the local newspaper, the city's internet website and included in the preceding municipal water and sewer service bill. Collection schedules and route information is available to the public from the department of public works and published annually. A person may apply to the city for an exception to this subsection upon a showing that a medical condition makes strict compliance with the provisions of the subsection impractical. A person so excepted shall use reasonable efforts to comply with the provisions of this subsection when practical.]
- (6) (5) Unless otherwise specified by in the citation, violations of this section shall be remedied within 24 hours of notice.

Sec. 40-29. Removal of offending containers.

(a) The city's public works employees are authorized to remove all solid waste containers in violation of this article, upon affording written notice to the property owner or resident of the city's intent to remove them. The dated, written notice shall be signed by the city employee delivering it and shall read as follows:

Your municipal waste container(s) is/are unlawfully located at or about the street in violation of Ordinance No. 09-001. You have until 8:00 a.m. tomorrow to remove the container or it shall be removed to the city Public Work's Facility. Any container removed by Public Works shall be inventoried and held at the Public Works Facility until the owner, upon presentation of proof of ownership,

pays any unpaid fine(s).

(b) For the purpose of this section, service of the above notice shall be complete upon actual personal delivery to the property owner or resident, or upon posting a true copy of the notice in a conspicuous place on the owner's or resident's property. Posting the notice on the offending containers shall satisfy this notice requirement.

Sec. 40-30. Regulation of dumpsters in residentially zoned areas.

The purpose of this section is to regulate the location and screening of dumpsters in residential zoned properties such that they will not, by reason of their location, manner of construction, or screening, cause annoyance, disturbance, or nuisance to the citizens of the city.

- (1) All existing dumpsters will be covered by these regulations upon adoption of this section.
- (2) No new dumpsters will be permitted except by permit from the building inspector which shall be issued only after the review of a drawing demonstrating compliance with all provisions of this section. The property owner shall be responsible for obtaining the permit and making necessary improvements to the property.
- (3) The planning commission may approve a dumpster as part of an approved development plan so long as it is in compliance with all provisions of this section.
- (4) All multifamily residential buildings of six or more units shall have a dumpster.
- (5) The property owner shall be responsible for compliance with these provisions.
- (6) Only temporary construction-related dumpsters shall be allowed in any R-1 zone.
- (7) The setback for dumpsters in approved zones shall meet the minimum front yard setback from rights-of-way. The side yard setback shall be ten feet and the rear yard setback shall be 15 feet. Temporary construction-related dumpsters shall meet the required setbacks to the extent practicable.
- (8) Dumpster screening shall meet or exceed the details set out in Exhibits 1—4, attached and made part of this section, on file in the office of the city clerk treasurer. Equivalency to these details shall be determined by the city or planning

- commission engineers.
- (9) The owner of any multifamily residential building not otherwise required to have a dumpster, which has three refuse-related violations under this section within a six-month period may be required upon written notice to provide a dumpster in accordance with this section.
- (10) Dumpsters located in residential zones shall not be emptied except during the hours between 7:00 a.m. and 6:00 p.m.
- (11) Temporary dumpsters to be located upon a public right-of-way shall obtain written location approval from the chief of police prior to receiving the permit from building inspection.
- (12) Temporary dumpsters located in a public right-of-way shall be equipped with lights or reflectors sufficient to make the box easily visible to motoring public.
- (13) The area within or immediately adjacent to the dumpster screening shall be kept free of debris. Contents of temporary construction-related dumpsters shall not be permitted to escape.
- (14) Owners of existing dumpsters which substantially meet the requirements of this section shall not be required to alter their property to comply with this section.

Sec. 40-31. Enforcement.

- (a) Violation of any section of this article shall constitute a civil offense which shall be enforced according to the procedures set forth in the chapter 2, article VI by the code enforcement board, hearing officers, code enforcement officers, citation officers and other persons duly authorized to investigate and enforce the violations through investigation, inspection and issuance of citations.
- (b) The penalty for violations of this article shall be as set forth in section 2-[792]842. All violations of this article, for which another penalty is not assigned, shall be considered Class 1 violations.
- (c) A citation for a violation of any section of this article and any applicable penalties will be waived only if the same or similar violation has not occurred on the property within the past 24 months and the violation is remedied within the time period specified by the citation.

Sec. 40-32. Franchise required for private collection and disposal of waste.

[It is the policy of the city to furnish municipal services for its citizens for the appropriate disposal of garbage and other forms of refuse or waste unless the city shall determine that it lacks the necessary equipment, expertise or other resources to handle such waste material. The universal use of approved municipal services is essential to the efficient and economical operation of municipal government and the provision of low cost service to the public. Accordingly,]

a) It shall be unlawful for any person, business or industry to utilize the streets, alleys, rights-of-way and other public ways or places within the city limits to deliver to, collect from, or transport from any business or industrial property any municipal, industrial and commercial waste, construction and demolition debris, hazardous waste, medical waste or recycling without first obtaining a valid current franchise from the city after the effective date of the ordinance from which this section is derived. No franchise contracted or awarded shall be exclusive within the city limits unless expressly provided, in writing, and made pursuant to notice and public bid offering or other procedures as may be specified by state law or this Code. In addition to any other requirements imposed by the terms of any franchise agreement or otherwise by law, applicants for a franchise to operate under the provisions of this section must demonstrate and maintain evidence of qualification and compliance under any applicable federal or state laws or regulations regarding waste collection and disposal.

b.) Non-exclusive solid waste franchises

Persons, firms or corporations collecting solid waste from dumpsters shall first obtain a non exclusive franchise from the city. [,and e] Each franchisee shall pay to the city a sum equal to ten percent annually of the gross service revenues of the franchise for service generated within the city limits. Such sum shall be reported and paid quarterly on or before 30 days following March 31, June 30, September 30 and December 31 of each year and provide a copy of such report to the city finance director. Each franchisee shall submit annually a certified statement from a certified public accountant of its gross revenues received within the city limits or such other information as may be reasonably required by the city revenue commission from time

to time. The business records of each franchisee shall be open and available to audit by the city revenue commission or its designee at all reasonable times to determine compliance with this section.

Sec. 40-33. Procedure for using roll cart containers.

- (a) It will be the responsibility of the property owners and/or occupant of said proper to keep the roll cart container (the Herbie Curbie) provided by the city reasonably secure and in good condition. If the city container needs replacement due to handling by the city or because of some manufacturer's defect, a new container will be provided or repairs will be made at no charge. The city will not replace stolen or vandalized containers or containers neglected by the customer.
- (b) The roll cart container may be filled to capacity as long as the lid can be closed and latched. The recommended weight capacity of 200 pounds shall not be exceeded. On collection day, the container must be set by the curb or shoulder of the road with the handle facing towards the street. Within a cart, garbage and trash shall be contained in disposable plastic bags. The bags shall be leakproof, of sufficient strength to resist tearing under normal handling, and shall be securely tied. No special handling wastes, hazardous wastes, medical waste, bricks, dirt, engine blocks or other excessively heavy material, hot ashes, paints, solvents or flammable liquids shall be placed in the container. Any canine feces (dog excrement) placed in the container must be contained in a securely closed, doubled plastic bag.
- (c) Special collection may be provided by the city for municipal waste that cannot be disposed of in the approved container with other municipal waste. Special collections are scheduled by public works.
- (d) Solid waste will not be picked up that is not placed correctly inside the containers. Material placed at the curb which does not meet the requirements set forth in this section or material which has not been properly prepared pursuant to section (a) of this section, or properly prepared and scheduled for special collection pursuant to section (b) of this section, shall, if not abated within the time period provided in the notice to abate, be subject to abatement by the city with all costs for such abatement to be billed to the property owner

pursuant to the procedures set forth in this article and the property owner shall further be subject to civil fines as set forth in this article.

Secs. 40-34—40-54. Reserved.

SECTION TWO

If any section, subsection, paragraph, sentence, clause, phrase, or a portion of this ordinance is declared illegal or unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions hereof.

SECTION THREE

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION FOUR

This Ordinance shall be in full force and effect on February 1, 2022 and after passage and publication.

PUBLICLY INTRODUCED AND READ FIRST TIME: November 22, 2021

PUBLICLY READ SECOND TIME AND PASSED: December 13, 2021

APPROVED: Tom Prather (Dec 15, 2021 14:55 EST)

Tom Prather, Mayor

ATTEST: Tracie Hoffman (Dec 22, 2021 09:56 EST)

Tracie Hoffman, City Clerk

2021-11-22 - Solid Waste Code Amendment

Final Audit Report 2021-12-22

Created: 2021-12-15

By: Tracie Hoffman (tracie.hoffman@georgetownky.gov)

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